

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**TED KNOX,**

**Plaintiff,**

**VS.**

**MARVIN F. POWERS, et al.,**

**Defendants.**

**No. 05-114-JPG-PMF**

## REPORT AND RECOMMENDATION

**FRAZIER, Magistrate Judge:**

Before the Court is defendant Lana Knupp's (f/k/a Lana Watkins) Motion to Dismiss (Doc. No. 101). The Motion is opposed at Document No. 107.

Plaintiff is an inmate in the Illinois Department of Corrections. He is presently represented by appointed counsel, but he was pro se during the times that service issues arose. He filed this claim on February 18, 2005, and an Amended Complaint was filed on September 15, 2005. The United States Marshals Service had been directed to obtain service on all defendants but did not accomplish service on Knupp until January 11, 2007. The Court had previously established May 26, 2006, as the deadline for service of process. It is the failure to meet that deadline that Knupp relies on.

Defects in service do not warrant dismissal where the plaintiff is relying on the United States Marshal to achieve service. *Graham v. Satoiski*, 51 F. 3d 710 (7th Cir. 1995). Plaintiff was pro se during relevant times and had the right to rely on the Marshal. The fact that service was tardy will not serve as grounds for dismissal. This is particularly appropriate where service has been obtained.

IT IS RECOMMENDED that defendant Knupp's Motion to Dismiss be DENIED.

**SUBMITTED: May 24, 2007.**

*s/Philip M. Frazier*

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PHILIP M. FRAZIER

UNITED STATES MAGISTRATE JUDGE